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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/597,609

05/09/2008

Yoshiho Gotoh

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EXAMINER

DINH, TAN X

ART UNIT

PAPER NUMBER

2627

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/597,609	Applicant(s) GOTOH, YOSHIHO	
	Examiner TAN X. DINH	Art Unit 2627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) ____ is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

1) This application is a 371 of PCT/JP 2005/001431, filed on 2/01/2005.

2) The I.D.S filed 8/01/2006, 7/17/2008 and 4/21/2009 has been considered by the Examiner. However, the foreign document(s), if they have not been written in English, are considered to the extent that could be understood from the English Abstract and the drawings.

Form PTO-1449 or PTO/SB/08 is(are) attached herein.

3) The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. The following title is suggested:

**METHOD FOR RECORDING REAL-TIME AND NON-REAL-TIME DATA ON
RECORDING MEDIUM.**

4) Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrase “ circular manner ” (claims 1-8) is unclear and cannot be understood. What is the meaning of “ recording the real-time data in a circular manner ” ?.

The same questions are applied for claims 4,7 and 8.

The phrase “ wherein the search ... within the first area ” (claims 1,4,7 and 8) is unclear and cannot be understood. How to perform this step ?.

Claim(s) 2,3,5 and 6 incorporate the indefiniteness of claim(s) 1, 4,7 and 8 by virtue of their dependency thereon.

5) The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6) Claims *1,4,7 and 8*, as understood by the meaning of 112, 2nd above, are rejected under 35 U.S.C. 103(a) as being unpatentable over **KATO et al (JP, 2002-216421)**.

KATO et al discloses a control device for controlling the recording data on a recording medium as claimed in claim 1, comprises means for determining whether data are real-time data or non-real time data (see the computer translation, paragraph [0018]. In this case, the real-time data is audio or video data and non-real time data is management data), when it is determined

that the data is real-time data, recording the real-time data in a circular area on the recording medium (the audio/video data is recorded on circular track), when it is determined that the data is non-real-time data, recording the non-real-time data onto unassigned area (the management is recorded on header of the sector), *except to specifically show* the step of searching an unassigned area (management areas). However, the management areas on optical disc for storing management information (the management information is used to control the recording/reproducing data on data area) is inherent in every optical disc, during recording or reproducing processes, the controller must searching these areas for identifying the data on management area and data area and using the management information as a tool to control the processing of data. Therefore, to searching unassigned area (management area) in KATO et al's as claimed is deem obvious to someone within the level of skill in the art.

Claim 7 is rejected with the same reasons set forth in claim 1 above.

Method claim(s) 4 and 8 are drawn to the method of using the corresponding apparatus claimed in claims 1 and 7. Therefore,

method claims 4 and 8 are rejected for the same reasons of anticipation (obviousness) as used above.

7) Claims 2,3,5 and 6 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

8) The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Applicant is reminded that in amending in response to a rejection of claims (if the rejection involves with any applicable arts), the patentable novelty must be clearly shown in view of the state of the art disclosed by the references cited and the objection made. Applicant must also show how the amendments avoid such references and objections. See 37 CFR § 1.111(c).

Form **PTO-892** is attached herein.

9) Any inquiry concerning this communication or earlier communications from the examiner should be directed to **TAN Xuan DINH** whose telephone number is **(571)272-7586**. The examiner can normally be reached on **Monday - Friday from 9:00AM to 5:00PM**.

The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the **Patent Application Information Retrieval (PAIR)** system.

Art Unit: 2627

Status information for published applications may be obtained from either **Private PAIR** or **Public PAIR**. Status information for unpublished applications is available through **Private PAIR only**. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the **Private PAIR** system, contact the **Electronic Business Center (EBC)** at **866-217-9197** (toll-free).

/TAN Xuan DINH/
Primary Examiner, Art Unit 2627
November 5, 2009